

FILED

FEB 07 2012

PATRICK E. DUFFY, Clerk
By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BUTTE DIVISION

SHANE McCLANAHAN,) Cause No. CV 11-86-BU-DLC
)
Petitioner,)
)
vs.) ORDER
)
LEROY KIRKEGARD, Warden,)
Montana State Prison; Attorney)
General of the State of Montana,)
)
Respondents.)

This case was closed on January 30, 2012. On February 1, 2012, the Clerk received a "Motion for Relief" from Petitioner McClanahan. Although the motion was filed on January 31, 2012, see Houston v. Lack, 487 U.S. 266, 276 (1985) (prison

mailbox rule), it will nonetheless be considered as a supplement to McClanahan's objections to the Magistrate Judge's Findings and Recommendation.

McClanahan does not show that he has exhausted his state remedies. The basis for his petition's dismissal is unchanged. Likewise, a certificate of appealability is denied because no reasonable jurist could question the continuing validity of the exhaustion requirement. Lynch v. Blodgett, 999 F.2d 401, 403 (9th Cir. 1993).

Accordingly, IT IS HEREBY ORDERED that McClanahan's motion for relief (Doc. 7) is DENIED. A certificate of appealability is DENIED.

DATED this 7th day of February, 2012.


Dana L. Christensen
Dana L. Christensen, District Judge
United States District Court